



“Any justice, judge, or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.”

Title 28, United States Code, Section 455(e) provides:

“Where the ground for disqualification arises only under Subsection (a), waiver may be accepted provided it is preceded by a full disclosure on the record of the basis for disqualification.”

The undersigned has further consulted the Code of Conduct for Judges and Judicial Employees and, in particular, Advisory Opinion 24 to Canon 2.7 of the Code of Conduct. The advisory committee provides as follows:

- (c) A judge who was a sole practitioner, or who otherwise has no single successor to the law practice, may distribute pending cases, including contingent-fee cases, to various lawyers or law firms, and thereafter receive fixed amount or a fixed percentage which is reasonable in light of the services previously rendered by the departing judge.
- (d) Where cases handled before appointment as judge are transferred to other attorneys, and fees for judge’s prior services are payable at end of litigation, **the judge must recuse in all cases handled by successor law firms or attorneys, until transferred cases are ended and fees paid.**

C.C.J.J.E., Chapter 5, at V-11 (May 1999) (emphasis added).

Although 28, United States Code, 455(e) provides that waiver of disqualification may be accepted, the court considers Canon 2 and the Advisory Opinions of the Code of Conduct for Judges and Judicial Employees as being mandatory and as a result the undersigned should recuse himself in this matter. The undersigned further considers that out of an abundance of caution, that he should recuse himself in any matter in which the firm of Long, Parker, Warren & Jones, P.A. represents any party until all cases transferred by the undersigned to Mr. Warren are ended and the fees paid.

**IT IS, THEREFORE, ORDERED** as follows:

- (1) That the undersigned recuses himself from this matter, pursuant to 28, United States Code, Section 455(a) and Canon 2.7 of the Code of Conduct of Judges and Judicial Employees; and
- (2) That this matter be transferred to United States District Judge Lacy H. Thornburg for all further proceedings.

**Signed: December 15, 2005**

Dennis L. Howell

Dennis L. Howell  
United States Magistrate Judge

